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# etex

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NOV 6 - 2008

FCC Mail Room

November 5, 2008

Mrs. Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Re: Etex Telephone Cooperative, Inc.

~~CC Docket No. 96-45~~

<sup>WC</sup>  
Docket No. 08-71

Petition for Waiver of Deadlines in 47 C.F. R. 54.301(b)

Dear Ms. Dortch:

Enclosed are an original and four (4) copies of the above referenced Petition for Waiver. Pursuant to Section 1.1105 of the Commission's rules, there is no filing fee associated with this request.

Respectfully submitted,

Danny Kellar  
General Manager  
Etex Telephone Cooperative  
PO Box 130  
Gilmer, Texas 75644

903.797.2711

No. of Copies rec'd 2  
List ABCDE

Enclosures:  
Original petition and four copies

NOV 6 - 2008

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FCC Mail Room

In re )  
 )  
Etex Telephone )  
Cooperative )  
 )  
Petition for Waiver of Deadline )  
In 47 C.F.R. 54.301(b) )

WC 08-71  
~~CC~~ Docket No. 96.45

Waiver – expedited action requested

**PETITION OF ETEX TELEPHONE COOPERATIVE  
FOR WAIVER OF DEADLINE IN 47 C.F.R. 54.301(b)**

**PETITION FOR WAIVER – EXPEDITED ACTION REQUESTED**

Pursuant to Section 1.3 of the Commission's Rules<sup>1</sup>, ETEX Telephone Cooperative requests a waiver of the October 1, 2008 date established by Section 54.301(b) of the Rules for submission of projected Local Switching Support ("LSS") data for the 2009 calendar year. ETEX failed to provide its projected 2009 LSS data to the Universal Service Administrative Company ("USAC") by the due date. The data was provided to NECA in a timely basis, but was inadvertently excluded from the data provided to USAC by NECA. NECA provided the data to USAC on October 9, 2008. As described herein, a waiver of the filing deadline is respectfully requested.

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<sup>1</sup> 47 C.F.R. §1.3

## **I. Background**

USAC requires that cost companies and average schedule companies submit projected information that allows USAC to calculate LSS amounts for inclusion in the Universal Service Program for the coming year. USAC requires incumbent local exchange carriers ("LECs") that have been designated an Eligible Telecommunications Carrier ("ETC") and serve 50,000 or fewer access lines within a study area to file LSS projections no later than October 1 of the year preceding the calendar year in which the LEC expects to receive LSS. ETEX is a rural incumbent local exchange carrier ("ILEC") and serves 13,660 access lines in its single Texas study area.

ETEX was designated as an ETC by the Texas Public Utility Commission in 1997. ETEX has been submitting LSS data and other federal High Cost Support forms and reports in a timely fashion, since these filing requirements were established during the implementation of the Telecommunications Act of 1996. ETEX has not previously missed a federal universal service filing deadline, or had a federal universal service filing returned as defective or incomplete. For the reasons described below, ETEX did not submit the 2009 LSS projection data to USAC in time to comply with the requirements of §54.301(b).

Although ETEX does not participate in NECA's Traffic Sensitive (TS) tariff, ETEX had provided NECA with the 2009 Local Switching Support projection data and necessary certification to file on its' behalf with USAC. NECA provided 2009 LSS projection data as a courtesy for a few non-TS pool members to USAC on October 1, 2008. On October 9, 2008, NECA found that the data and certification were inadvertently excluded from the information NECA had provided to USAC. NECA

immediately contacted USAC and provided the 2009 LSS data; however, USAC cannot process ETEX's 2009 projected LSS data submission unless and until the Commission grants ETEX a waiver of Section 54.301(b) filing data. As a result, ETEX will not receive LSS for 2009 until the Commission grants such waiver.

ETEX notes again that it has complied fully and in timely fashion with all federal universal service filing requirements and deadlines since the 1996 Act was implemented. ETEX takes the lapse in reporting seriously and ensure this will never happen again.

In addition, ETEX's spotless record of compliance with USAC reporting obligations should also factor into the FCC's assessment of this request. ETEX never missed a USAC deadline previously. The Commission found this to be a consideration in the granted waiver requests of Citizens Communications and Frontier Communications<sup>2</sup>. Like Frontier, ETEX's delay in filing was brief and the error was promptly cured and did not create a hardship for USAC or other fund recipients.

The grant of the waiver can easily be accommodated by USAC, without burden to any other carrier, within the existing universal service process. USAC uses the true-up process to correct projected data from ETC's to reflect carrier's actual LSS amounts at a later point in time. As such, ETEX's LSS disbursement, upon expedited action by the Commission, can be included and trued-up through the already established process.

## **II. Adverse Impacts upon Universal Service Goals**

The loss by ETEX of approximately \$239,000 in expected LSS for 2009 will be extremely onerous and disruptive, particularly because the company will have no

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<sup>2</sup> Citizens Communications and Frontier Communications Request for Review of a Decision of the Universal Service Administrator and Petition for Waiver of FCC Rule Section 54.802(a), Order Released October 27, 2005.

offsetting reductions in its 2009 local switching costs. The purpose of the LSS universal service program is to provide cost recovery to small LECs for the costs of their switching investment and expenses. As such, LSS has been a substantial portion of ETEX's recovery of its switching costs for many years. The continued availability of LSS ensures that companies are not required to recover these relatively higher costs through intrastate, basic rates.

### **III. Request for Expedited Action**

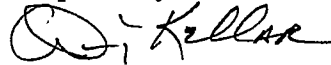
Unless and until the Commission grants ETEX's waiver request, it will be forced to forego its 2009 LSS cost recovery revenues. This support is needed and used by ETEX to support its ongoing costs and capital improvements to upgrade its network and to provide advanced services. The required data has already been submitted to USAC, and it appears that USAC is fully capable of incorporating this data. ETEX requests expedited action by the Commission so that USAC can be properly notified as soon as practical so that future revenues will reflect accurate LSS cost recovery.

### **IV. Conclusion**

ETEX regrets that their 2009 LSS projection data was filed after the due date and have taken steps to ensure that this will not happen again. For the reasons stated herein, ETEX submits that good cause has been shown for the grant of the requested waiver as set forth herein. Grant of the waiver will allow ETEX to receive LSS disbursements for the year 2009 consistent with the statutory goal of preserving and advancing universal service for the rural customers served by the company. The result will be consistent with

the public interest. Expedited action is requested to minimize the time that ETEX will be prevented from receiving LSS cost recovery support that it expected to receive. Without the LSS support, it will be the customers of ETEX that will be burdened with potential rates changes, curtailed upgrades or delays in the availability of advanced services. With the grant of the waiver, ETEX will merely receive the LSS that was intended under the universal service plan policies, and the grant of the waiver will not adversely affect any other carrier or customer.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "D. Kellner", is written over the typed name.

**ETEX Telephone Cooperative, Inc.**

Local Switching Support  
Data Collection Form  
Cost Company

Local Switching Support  
Data Collection Form  
Cost Company

Approved By OMB  
3060-0814  
Expires 9/30/2001  
Avg. Burden Estimate Per Respondent: 24 Hours

(010) Exchange Carrier Study Area Code. (010) 442070  
(020) Exchange Carrier Study Area Name (020) Etex Telephone Cooperative, Inc.  
(023) Data Period (023) 2007  
(025) Submission Period (check One) Original Projection ☐ True-up To Actual ☒

(030) Contact Name! Person USAC Should Contact For Questions About This Data (030) Keith Clayton  
(040) Contact Telephone Number! Number Of The Person Identified In Data Line (030) (040) 719-574-5120  
(045) Tax Status (Y=Taxable, N=Nontaxable) (045) N

II. WORKING LOOPS& DIAL EQUIPMENT MINUTE FACTOR

(050) Category 1.3 Loops! Enter The Count Of Category 1.3 Loops Excluding Category 1.3 Twx (Tele type writer Exchange Service) Loops. (050) 13,099  
(060) 1996 Interstate Unweighted Dial Equipment Minute (DEM) Factor Used In 1996 Cost Study (060) 0.123564  
(070) 1996 DEM Weighting Factor (070) 2.50

III. INVESTMENT, PLANT OPERATIONS EXPENSE AND TAXES

	Total Account	Local Switching		
(100) Account 2001-Telecommunications Plant In Service	(100) 69,782,726		66,116,454	
(110) Account 2210-Central Office Switching Equipment	(110) 3,805,028		3,461,510	
(115) Account 2210-Category 3-Coe Category 3 (Local Switching)	(115) 3,805,028	3,805,028	3,461,510	3,461,510
(120) Account 2220-Operator System Equipment	(120) 0		0	
(130) Account 2230-Central Office Transmission Equipment	(130) 14,581,035		13,114,583	
(140) Total Central Office Equipment	(140) 18,386,063		16,576,093	
(150) Account 2310-Information Origination/termination	(150) 0		0	
(160) Account 2410-Cable& Wire Facilities	(160) 43,724,037		42,310,876	
(170) Account 2110-General& Support Facilities	(170) 6,822,626	417,975	6,379,485	374,999
(180) Account 2680-Amortizable Tangible Assets	(180) 0	0	0	0
(190) Account 2690-Intangibles	(190) 850,000	52,074	850,000	49,965
(200) Account 2002-Property Held For Future Telecommunications Use	(200) 0	0	0	0
(210) Account 2003-Telecommunications Plant Under Construction	(210) 2,748,215	149,852	46,121	2,415
(220) Account 2005-Telecommunications Plant Adjustment	(220) 0	0	0	0
(230) Account 1402-Investments In Non-affiliated Companies Rural Telephone Bank Stock	(230) 0	0	0	0
(240) Account 1220-Material And Supplies	(240) 583,158	31,798	582,965	30,521
(250) Cash Working Capital	(250) 391,470	21,346	50,500	2,644
(260) Account 3100-Accumulated Depreciation-Switching	(260) 2,259,106	2,259,106	1,991,693	1,991,693
(265) Account 3100-Accumulated Depreciation-Support Assets	(265) 3,760,426	205,045	3,793,320	198,599

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(010) Exchange Carrier Study Area Code. (010) 442070  
(020) Exchange Carrier Study Area Name (020) Etex Telephones Cooperative, Inc  
(023) Data Period (023) 2007  
(025) Submission Period (checkOne) Original Projection ☐ True-up To Actual ☒

(270) Account 4100-Net Deferred Operating Income Taxes	(270)	0	0	0	0
(280) Account 4340-Net Noncurrent Operating Income Taxes	(280)	0	0	0	0
(290) Account 3400-Accumulated Amortization-Tangible	(290)	0	0	0	0
(300) Account 3500-Accumulated Amortization-Intangible	(300)	556,547	30,347	0	0
(310) Account 3600-Accumulated Amortization-Other	(310)	0	0	0	0
(320) Account 6110-Network Support Expense	(320)	49,089	2,677	45,602	2,387
(330) Account 6120-General Support Expense	(330)	579,604	35,508	655,561	38,535
(340) Account 6210-Central Office Switching Expense	(340)	1,308,475	270,792	1,029,109	214,904
(350) Account 6220-Operator Services Expense	(350)	0	0	0	0
(360) Account 6230-Central Office Transmission Expense	(360)	184,672	38,218	186,431	38,931
(361) Account 6310-Information Origination/Termination Expense	(361)	0		0	
(362) Account 6410-Cable And Wire Facilities Expense	(362)	2,195,386		2,083,762	
(370) Account 6510-Other Property Plant And Equipment Expense	(370)	6,047	330	3,037	159
(380) Account 6530-Network Operations Expense	(380)	1,020,815	55,662	970,791	50,826
(381) Account 6540-Access Expense	(381)	110,243		104,351	
(390) Account 6610-Customer Services Marketing Expense	(390)	33,657	1,835	28,811	1,508
(400) Account 6620-Customers Operations Services Expense	(400)	1,109,768	60,512	940,177	49,223
(410) Account 6710-Executive And Planning Expense	(410)	434,700	31,716	451,285	30,613
(420) Account 6720-Corporate Operations Expense	(420)	2,025,766	147,800	1,728,408	117,247
(430) Account 7230-Operating State And Local Income Taxes	(430)	0	0	0	0
(440) Account 7240-Operating Other Taxes	(440)	373,371	20,359	429,223	22,472
(450) Account 7210-Operating Investment Tax Credits-Net	(450)	0	0	0	0
(460) Account 7250-Provisions For Deferred Operating Income Taxes-Net	(460)	(283,415)	(15,454)	(290,904)	(15,230)
(470) Account 6560-Depreciation And Amortization Expense-Switching	(470)	374,507	374,507	439,311	439,311
(475) Account 6560-Depreciation And Amortization Expense-Support	(475)	374,591	20,425	324,101	16,968
(480) Account 7370-Contributions and Fees	(480)	528	29	891	47
(490) Account 7500-Interest And Related Items	(490)	108,766	5,931	5,609	294
(500) Account 7340-Allowance For Funds Used During Construction	(500)	96,453	5,259	32,580	1,706



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(020) Exchange Carrier Study Area Name (020) Etex Telephone Cooperative, Inc.  
(023) Data Period (023) 2007  
(025) Submission Period (check One) Original Projection ☐ True-up To Actual ☒

(510) Account 1410-Other Non-current Assets	(510)	0	0	0	0
(520) Account 1500-Other Jurisdictional Assets-Net	(520)	0	0	0	0
(530) Account 4370-Other Jurisdictional Liabilities And Deferred Credits-Net	(530)	0	0	0	0
(540) Account 4040-Customer Deposits	(540)	142,743	7,783	150,516	7,880
(550) Account 4310-Other Long Term Liabilities	(550)	(584,303)	(31,860)	(1,033,185)	(54,092)
(560) Account 1438-Deferred Maintenance And Retirements	(560)	0	0	0	0

A Factor	(COE Category 3/ (COE+ CWF+ IOT)	0.061263	0.058782
B Factor	(COE Category 3/ Total Plant in Service)	0.054527	0.052355
C Factor	(COE Category 3/ Total COE)	0.206952	0.208825
D Factor	(COE 3 Expenses/ Big 3 Expenses)	0.07296	0.067835
E Factor	(COE 3/ COE Switching)	1.000000	1.000000

Current Period Net Investment	2,007,651	1,777,973
Prior Period Net Investment	1,777,973	
Average Net Investment	1,892,812	
Return on Investment	212,941	
Federal Taxable Income	0	
Federal Income Tax Requirement	0	
Expenses and Other Taxes	1,060,370	
Local Switching Revenue Requirement	1,268,052	
Local Switching Support	235,028	

0.35  
0.65  
1.538461538  
0.30891